

**REMARKS****Summary of the Office Action**

The United States Patent & Trademark Office (USPTO) has removed the allowability of claims 2-5, and withdrawn the finality of the previous Office Action for this application.

In the pending Non-Final Office Action, claims 2-5 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out distinctly claim the subject matter which the applicant regards as the invention.

Claims 2-5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,634,536 to *Yoshie* in view of U.S. Patent No. 5,009,355 to *Akizawa et al.* ("*Akizawa*").

**Summary of the Response to the Office Action**

Applicants have amended claims 2 and 4-6. No new matter has been introduced. Claim 1 is cancelled and claim 6 is withdrawn. Applicants respectfully submit that the newly added features of the present invention are not taught or suggested by the applied references of record. Accordingly, claims 2-5 are presently pending.

**All Subject Matter Complies with 35 U.S.C. § 112, second paragraph**

Applicants have amended claims 2 and 4-5 in order to expedite the prosecution of this case. Applicants respectfully submit that the amendments to claim 2 and 4-5 do not narrow the intended scope of the claim, and therefore, Applicants do not intend to relinquish any subject matter by these amendments. Applicants respectfully submit that claims 2-5 meet all the requirements of 35 U.S.C. § 112, as amended.

Applicants respectfully disagree that “a pivoting force in an opening direction of the table is hampered by engaging the locking means with each wing piece of the table,” is indefinite because the relationship between pivoting table and main body frame is previously defined in the claims. Thus, the rejections of claims 2-5 under 35 U.S.C. § 112, second paragraph, are moot.

Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. § 112, second paragraph, be withdrawn.

**All Claims Comply With 35 U.S.C. § 103(a)**

Claims 2-5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Yoshie* in view of *Akizawa*. Applicants respectfully traverse the rejection for at least the following reasons.

Applicants respectfully assert that the rejection of claims 2-5 as being upatentable over *Yoshie* in view of *Akizawa* is not sufficient. For example, the Office Action states that *Yoshie* “fails to disclose wherein the locking pin engages with the wing piece.” Then the Office Action asserts *Akizawa* teaches the missing features; the wing (16) and the pin (17). However, *Akizawa* actually teaches away from the present invention. That is, *Akizawa* is oriented completely opposite from the stapler and locking means in *Yoshie*, and thus the combination cannot operate as suggested and it does not make obvious the present invention.

In particular, *Yoshie* teaches a main body including a driver holder (101), and a pivoting table (210) with a clincher that is pivoted toward the main body. However, the drive shaft (14) in *Akizawa* causes a pivoting driving unit (5) to be pulled toward a stationary base with a clincher (*i.e.*, staple table 7) by a connecting rod 6. The connecting rod 6 includes a slot (16) that

engages a pin (17). Because the orientation of these components in *Yoshie* and *Akizawa* are opposite to each other, their combination destroys the base reference, *Yoshie*.

In the present invention, the pivoting table 4 including the clincher mechanism 8 is rotated about the support shaft 7. In contrast, in *Akizawa*, a driving portion (striking portion) is rotated about support shaft 2. The configuration of the present invention is fully opposite from the one in *Akizawa*. Further, the Office Action interprets an actuating link 4 of *Akizawa* corresponds to the table 4 of the present invention. However, the actuating link 4 of *Akizawa* cannot function as the present invention's table 4 which includes the clincher mechanism 8. The table in *Akizawa* is clearly member 7. Therefore, the present invention is not obvious in light of combining *Yoshie* and *Akizawa*.

Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. § 103(a) be withdrawn.

**CONCLUSION**

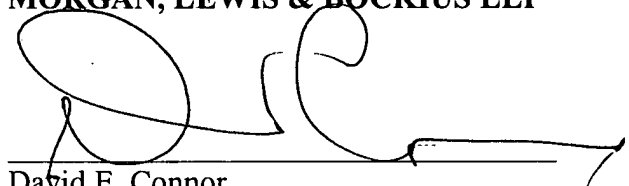
In view of the foregoing, Applicants respectfully requests entry of the amendments to place the application in clear condition for allowance or, in the alternative, in better form for appeal.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

**MORGAN, LEWIS & BOCKIUS LLP**

By:

A handwritten signature in black ink, appearing to read 'David E. Connor', is written over a horizontal line.

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